IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY FIFTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 657 of 2005

Between:

P.Naga Lakshmi, W/o.Nagalutaiah
Tangaradona Village, Aspari Mandal, Kurnool District.

..... PETITIONER

AND

1 The Joint Collector, Kurnool Kurnool District.
2 The Revenue Divisional Officer Adoni, Kurnool District.
3 The Mandal Revenue Officer Aspari Mandal, Kurnool District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction, more particularly one in the nature of writ of Mandamus declaring the action of the 1st respondent in rejecting to grant orders on the stay petition filed along with the appeal as illegal, void and ultravires the provisions of the A.P.State Public Distribution system Control Order, 2001 and consequently set aside the proceedings of the 2nd respondent Dt.23.12.2004 in Rc.M.1369/2004 and to grant such other relief or reliefs as this Hon'ble Court deems fit and proper in the circumstances of the case.

Counsel for the Petitioner:MR.J.JANAKIRAMI REDDY

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court, at the stage of admission, made the following :

ORDER:

Petitioner is a dealer of the fair price shop of Tangaradona Village, Aspari Mandal, Kurnool District. The 2nd respondent issued a show cause notice, dated 11.11.2004, directing her to explain as to why her authorization shall not be suspended, in view of the charges contained therein. On receipt of the same, petitioner submitted her explanation on 30.11.2004 denying the charges. The 2nd respondent passed an order, dated 23.12.2004, suspending the authorization of the petitioner. Aggrieved thereby, petitioner filed an appeal before the 1st respondent together with an application for stay. The 1st respondent is said to have rejected the application for stay without assigning any reasons. Hence, this writ petition.

Heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

The A.P. State Public Distribution System Control Order, 2001, (for short 'the Control Order') empowers the 2nd respondent to suspend or cancel the authorization of a fair price shop dealer. If the suspension is ordered as a measure of penalty, it should be preceded by a show cause notice and enquiry under Clause 5(4) of the Control Order. However, where it is ordered as a measure pending enquiry, it is not necessary either to give show cause notice or to conduct any enquiry.

The 2nd respondent proposed to impose the penalty of suspension and accordingly issued a show cause notice. Three charges were framed against the petitioner. They are to the effect that the petitioner is distributing the commodities by collecting higher prices; running the shop only for three days in a month, and that she is distributing

less quantity of commodities to the card holders. Petitioner submitted her explanation denying the allegations. The 2nd respondent was not satisfied with the explanation and suspended the authorization. To this extent, there cannot be any plausible objection. However, suspension by way of penalty is required to be for a definite period. There cannot be an indefinite suspension as a measure of penalty. In such an event, it tends to become an order of cancellation. The impugned order does not disclose that any further enquiry is contemplated. The 2nd respondent was supposed to indicate the duration of suspension.

The 1st respondent has rejected the application for stay. In a matter of this nature, if interim order is rejected without stating any reasons, the very purpose of filing the appeal would be defeated. The reason is that the period, for which the petitioner is disabled from functioning as dealer, deserves to be treated as period of suspension itself. If, ultimately, the 1st respondent finds that the suspension is ought to have restricted to a reasonable period, such a relief becomes infructuous, if the petitioner is disabled from functioning, as such, for a longer period.

For the foregoing reasons, the writ petition is disposed of directing that the order, dated 23.12.2004, passed by the 2nd respondent shall remain stayed, pending disposal of the appeal by the 1st respondent, and that the petitioner shall be entitled to function as fair price shop dealer till then. There shall be no order as to costs.

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(L.NARASIMHA REDDY,J)

Date: 25-01-2005

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Note: L.R. Copy to be marked.

To

1 The Joint Collector, Kurnool Kurnool District.
2 The Revenue Divisional Officer Adoni, Kurnool District.
3 The Mandal Revenue Officer Aspari Mandal, Kurnool District.

4 2 CCs to the G.P. for Civil Supplies, High Court buildings, Hyderabad (OUT).

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